

United States  
Circuit Court of Appeals  
For the Ninth Circuit.

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LEONG SHEE,

Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration  
for the Port of San Francisco,  
Appellee.

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Transcript of Record.

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Upon Appeal from the Southern Division of the  
United States District Court for the  
Northern District of California,  
First Division.

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FILED

SEP 24 1923

F. D. BOWEN



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Circuit Court of Appeals  
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LEONG SHEE,

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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### **Names of Attorneys of Record.**

For Petitioner and Appellant:

GEORGE A. MCGOWAN, Esq., San Francisco,  
Cal.

For Respondent and Appellee:

UNITED STATES ATTORNEY, San Fran-  
cisco, Cal.

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In the Southern Division of the United States  
District Court in and for the Northern District  
of California, First Division.

No. 17,605.

In the Matter of LEONG SHEE, on Habeas Cor-  
pus.

### **Praeceptum for Transcript on Appeal.**

To the Clerk of said Court:

Sir: Please make transcript of appeal in the  
above-entitled case, to be composed of the following  
papers, to wit:

1. Petition for writ.
2. Order to show cause.
3. Demurrer.
4. Minute order introducing immigration record  
at the hearing on demurrer.
5. Judgment and order denying petition.
6. Notice of appeal.
7. Petition for appeal.
8. Assignment of errors.
9. Order allowing appeal.

10. Citation on appeal.
11. Stipulation and order respecting immigration record.
12. Clerk's certificate.

GEO. A. MCGOWAN,  
Attorney for Petitioner.

Service of the within praecipe and receipt of a copy thereof is hereby admitted this 4th day of May, 1923.

JOHN T. WILLIAMS,  
U. S. Attorney.

[Endorsed]: Filed May 4, 1923. Walter B. Mal-  
ing, Clerk. By C. W. Galbreath, Deputy Clerk.  
[1\*]

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In the Southern Division of the United States  
District Court in and for the Northern District  
of California, First Division.

No. 17,605.

In the Matter of LEONG SHEE, 16,516/3-4 Ex  
SS. "Tjikembang," September 15, 1917, on  
Habeas Corpus.

**Petition for Writ.**

To the Honorable, United States District Judge,  
now presiding in the United States District  
Court, in and for the Northern District of Cali-  
fornia, First Division:

It is respectfully shown by the petition of the  
Louis Him, that Leong Shee, hereafter in the peti-

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\*Page-number appearing at foot of page of original certified Tran-  
script of Record.



tion referred to as "the detained," is unlawfully imprisoned, detained, confined and restrained of her liberty by Edward White, Commissioner of Immigration for the port of San Francisco, at the Immigration Station at Angel Island, county of Marin, State and Northern District of California, Southern Division thereof; that the said imprisonment, detention, confinement and restraint are illegal and that the illegality thereof consists in this, to wit:

That it is claimed by the said Commissioner that the said detained is a Chinese person and alien not subject or entitled to admission into the United States under the terms and provisions of the Acts of Congress of May 6, 1882; July 5, 1884; November 3, 1893, and April 29, 1902, as amended and reenacted by Section 5 of the Deficiency Act of April 7, 1904, which said acts are commonly known and referred to as the Chinese Exclusion or Restriction Acts; and that he, the said Commissioner intends to deport the said detained away from and out of the United States to the Republic of China. [2]

That the Commissioner claims that the detained arrived at the port of San Francisco on or about the 15th day of September, 1917, on the SS. "Tjikembang," and thereupon made application to enter the United States as the wife of your petitioner, a native-born citizen of the United States, and that in the examination of the said application it was found and conceded by the said Commissioner that your petitioner was and is a native-born citizen of the United States, but the evidence so presented upon behalf of the said detained was deemed and held

to be insufficient to establish the existence of the relationship of husband and wife between your petitioner and the said detained; and upon September 28, 1917, a conditional denial was entered of the said application upon said ground; and under the rules as then existing a copy of the entire record was loaned to Messrs. McGowan & Worley, the then attorneys for the detained, for their information as to why the evidence so presented was deemed insufficient, and the then attorneys for the said detained did on October 2, 1917, apply to the said Commissioner requesting a reconsideration of the said case, and that the applicant be landed upon parole so that she might go to the home of her husband, the petitioner herein, at Tucson, Arizona; and in compliance with said request the said Commissioner did, on October 10, 1917, order the detained landed upon parole.

That the said Commissioner thereafter caused an examination to be made of certain witnesses in Canton, China, which said examination was conducted presumably during the month of August, 1919; and that thereafter, and upon September 24, 1919, a Board of Special Inquiry entered a conditional denial of the application of the said detained to enter the United States and allowed ten days' further time within which to produce any additional evidence which might be available upon behalf of the said detained, and notice thereof was forwarded to the attorneys for the said detained [3] upon September 24, 1919, but the Chinese Rules and Regulations having been changed in the interim, an

inspection of the record of the immigration record was withheld from the attorneys for the detained; and that thereafter, and upon October 20, 1919, the attorneys for the detained protested to the Commissioner against the withholding of the record from their inspection, and because of said fact were unable to state that they had any additional evidence to submit; that the matter was held in abeyance to permit the detained to submit additional evidence; and thereafter, and upon January 6, 1920, additional evidence was presented upon behalf of the detained, consisting of affidavits of a large number of witnesses who were residents of Tucson, Arizona, which said evidence was duly received and upon January 15, 1920, the said witnesses were all examined at Tucson, Arizona; and that thereafter, and on February 26, 1920, a final denial was entered and the application of the said detained to enter the United States, the reason for the denial being that though your petitioner, the said Louie Him, was found and conceded to be a native-born citizen of the United States, and though this detained was found to be living with your petitioner in the relationship of husband and wife, and that admittedly they had so lived ever since 1908, that the said detained was, in point of law, not the only wife of your petitioner, for the reason that he had formerly been married to another woman, who was still living in China, where she had always resided.

That upon the 27th day of February, 1920, the said Commissioner revoked the parole of the said detained and requested that she be returned into

custody. That thereafter, and upon the 1st day of March, 1920, an appeal was taken to the Secretary of Labor from said excluding decision, and then, for the first time access was had by the attorneys for the detained to the record [4] of the hearing before the Board of Special Inquiry, and then, for the first time, the existence of testimony taken in China was made known to the legal representatives of the said detained.

That on or about March 25, 1920, the detained arrived in San Francisco, and upon April 1, 1920, the Commissioner of Immigration continued the parole of the said detained providing she remained in San Francisco; and thereafter, and during the month of May, 1920, and after your petitioner and the detained had examined the testimony heretofore taken in China, they filed their affidavits with the said Commissioner setting forth the facts to be that your petitioner was first married in 1891 to Wong Shee, and that eleven years thereafter, or in 1902, they separated according to the laws and customs of the Chinese Empire, which was the place of residence and domicile at that time of your petitioner and his then wife, Wong Shee, and dissolved the marriage then and there existing between them by your petitioner taking his children and returning them to his parents, and by returning his then wife, Wong Shee, to her parents, and that he had never since that time, that is, since 1902, seen or heard from his former wife, the said Wong Shee, and that the said separation, by the mutual consent of the said parties was, under the laws and customs of

China, an absolute divorce, and that your petitioner was thereafter a single man and remained such until 1907, when your petitioner was married to this detained, Leong Shee, and that your petitioner had ever since said time continuously maintained his marital relationship with the detained, the said Leong Shee, as his wife.

Your petitioner further alleges that upon June 3, 1920, the Secretary of Labor enlarged the parole agreement extended to the said detained and permitted her to return to Tucson, Arizona, where she had formerly lived, and where she had given birth to the [5] first child of your petitioner and the said detained, namely (Pansy) Louie Lai Sui, who was born at Tucson on March 17, 1919; and that thereafter upon June 8, 1920, there was born the second child to your petitioner and the said detained at San Francisco, namely (Viola), Louie Lai Fung. That on or shortly after March 1, 1921, the said appeal heretofore mentioned was submitted for final decision before the Secretary of Labor, and was dismissed by that official upon March 5, 1921; that upon October 8, 1921, there was born to your petitioner and the said detained, at Tucson, the third child, namely (Orchid), Louie Lai Toy.

Your petitioner further alleges that it is conceded by the said Commissioner that upon August 4, 1921, there was filed and presented to the said Commissioner a petition and request for the reopening and reconsideration of this case, submitting affidavits as a foundation for the introduction of further and material testimony, the affidavits being by Louie

Bing, a son of your petitioner by his first wife, the said Wong Shee, wherein he set forth the facts of her death in China when he was ten years of age, and that his father, your petitioner, had no other wife at the time of his marriage to Leong Shee, and that said marriage occurred after the death of his first wife, Wong Shee. The second proposed witness' affidavit is that of Louie Foon, who stated that he was present at the time of the marriage in China of your petitioner to the said detained, Leong Shee, and that he assisted in the marriage ceremony, which was performed according to the Chinese custom. The third proposed new witness, Low Yeun, stated that he had known your petitioner for more than thirty years, attesting further that he knew and had heard of the death of your petitioner's first wife, Wong Shee, about five years prior to the marriage of your petitioner to this detained, Leong Shee. There was further submitted as part and parcel of [6] said petition for the reopening and reconsideration of this case, the birth certificates of the first and second of the children hereinbefore mentioned, and calling attention to the then pregnant condition of this detained, which finally terminated in the birth of the third child set forth in this petition.

Your petitioner alleges that said rehearing and reconsideration were refused on August 5, 1921. Your petitioner further alleges that the said detained is now in custody with the Commissioner of Immigration for the purpose of deporting her to China; that it is the intention of the said Com-

missioner to deport the said detained to the Republic of China by the SS. "Tjileboet," sailing from this port on Saturday, July 15th. That she will be taken away from your petitioner, the man who admittedly has maintained the relation of husband toward her for the last fifteen years, and to whom she has borne, upon American soil, three native-born citizens of the United States, all as hereinbefore in this petition set forth, each of which American-born citizens are of young and tender years and in need of the constant care and attention of their mother, and are now with her in detention at Angel Island.

Your petitioner alleges that the finding of the said Commissioner and the said Board of Special Inquiry, and the said Secretary of Labor, is based upon the fact that your petitioner was previously married in China to Wong Shee, and though there is no evidence presented to show that your petitioner had ever seen or lived with the said Wong Shee since his separation from her in 1902 in China, and it was, and is, conceded that the said Wong Shee had never resided in the United States or any place other than the Empire, and later, the Republic of China, where she was at all times subject to the laws and jurisdictions of that country, and where your petitioner was a resident at the time of his marriage and separation from the said Wong Shee, and within its jurisdictions and subject to its then laws, and it being [7] further conclusively established by the evidence and conceded that your petitioner married the said detained in the Empire of China, while your petitioner and the said detained

were residents thereof, in 1907, when they were both subject to its laws and jurisdiction, and that the said marriage was legal and in accordance with the laws and customs of that country, whether your petitioner's first wife was then dead or alive, or whether the marriage theretofore existing between them was then and there in full force and effect or dissolved by a separation or divorce according to the customs of the country in which the parties to this proceeding then resided; and that the decision denying the right of the detained to enter the United States, of the said Commissioner and the said Board of Special Inquiry, and the said Secretary of Labor, is based upon the conclusion as contained in said decisions and each thereof, that the said detained is the plural or concubine wife of your petitioner and therefore not his legal wife, and hence inadmissible into the United States, notwithstanding the further admitted facts that the said Wong Shee, who was the first wife of your petitioner, is not now, and never has been, a resident of, or within the jurisdiction of, or ever applied for admission into the United States.

But, on the contrary, your petitioner alleges on his information and belief, that the hearings and proceedings had herein by and before the said Commissioner, the said Board of Special Inquiry, and the said Secretary of Labor, and the action of each thereof, was and is in excess, and an abuse of the authority committed to them by the rules and regulations, and by the said statutes, and that the denial of the application of the said detained to enter the



United States as the wife of a native-born citizen thereof, was, and is, an abuse of the authority committed to them by the said statutes, and that, your petitioner alleges upon his information and belief, it was an abuse of the official [8] discretion of the said Commissioner to refuse to receive the testimony of the three proposed witnesses whose affidavits were presented to the said Commissioner together with the petition or request for a rehearing on or about August 4, 1921, all as hereinbefore set forth on pages 5 and 6 of this petition, and by such action preventing the detained from having the benefit of positive and affirmative testimony of witnesses which would show conclusively, according to the information and belief of your petitioner, that his first wife, Wong Shee, was dead at the time of the marriage of your petitioner to this detained, and that the establishment of said fact would have shown the admissibility of this detained into the United States, even under the law as construed by the said Commissioner, the said Board of Special Inquiry, and the said Secretary of Labor, and that such action has prevented the detained from having a full and fair opportunity to present evidence in her own behalf showing her admissibility into the United States, and she is, as a result thereof, deprived of her liberty without due process of law.

Your petitioner further alleges upon his information and belief, that the action of the said Commissioner, the said Board of Special Inquiry, and the said Secretary of Labor, in denying admission into the United States of the said detained was done and

arrived at, according to the information and belief of your petitioner, by misconstruing the point of law involved, namely, it being conceded that your petitioner is a native-born citizen of the United States, and that he has maintained the relationship of husband and wife with this detained since 1907, the said marriage having been legal and valid within the Empire of China, where the same was contracted, your affiant never having had, and now having no other wife within the United States, that the said detained is, in point of law, entitled to admission into the United States as the wife of your petitioner, irrespective of the [9] fact as to whether Wong Shee, the nonresident first wife of your petitioner, was living or dead at the time of the marriage of the said detained to your petitioner, or at the time of the application for admission into the United States of the said detained.

Your petitioner further alleges, upon his information and belief, that the said Commissioner, the said Board of Special Inquiry, and the said Secretary of Labor, have misconstrued the force and effect of the evidence submitted in said matter, and misconstrued the law and made a mistake of law in not concluding and finding from the evidence submitted in this case that, according to the law of domicile of your petitioner, Louie Him, and his first wife, Wong Shee, at the time of their marriage and during the time of their residence together as husband and wife in China, that the said marriage was absolutely dissolved and terminated by mutual consent and divorce by the said husband, your peti-

tioner, leaving and separating from his former wife, Wong Shee, and returning her to her people, and that said action upon the part of your petitioner was in law and in fact according to the law of the then domicile of your petitioner and his then wife, an absolute divorce, and left him in the status of a single and unmarried man, and eligible to contract and enter his second marriage with this detained.

Your petitioner further alleges, upon his information and belief, that it was an abuse of the authority committed to the said Commissioner, the said Board of Special Inquiry, and the said Secretary, in not finding that this detained as the second wife of your petitioner, was entitled to admission into the United States, your petitioner being a citizen of the United States now domiciled therein, and having no wife resident or domiciled therein.

That your petitioner has not in his possession a full copy [10] of the said proceedings had before the said Commissioner, and the said Board of Special Inquiry, and the said Secretary, and it is for said reason impossible for your petitioner to annex hereto a full copy of the said immigration records; but your petitioner is willing to incorporate as part and parcel of his petition, the said immigration record when the same shall have been received from the Secretary of Labor at Washington, and shall have it presented to this Court at the hearing to be had hereon.

That it is the intention of the said Commissioner to deport the said detained and her three American-born children out of the United States and away

from the land of which the detained's husband and their three said minor children are citizens, by the SS. "Tjileboet," sailing from the port of San Francisco upon the 15th day of July, 1922, at 1 P. M., and unless this Court intervenes to prevent said deportation the said detained will be deprived of residence within the land of which her husband and their three children are citizens.

That the said detained is in detention, as aforesaid, and for said reason is unable to verify this said petition upon her own behalf and for said reason petition is verified by your petitioner, but for and as the act of the said detained, and his own behalf as the husband of the said detained.

WHEREFORE, your petitioner prays that a Writ of Habeas Corpus issued herein as prayed for, directed to the said Commissioner commanding and directing him to hold the body of the said detained within the jurisdiction of this Court, and to present the body of the said detained before this Court at a time and place to be specified in said order, together with the time and cause of her detention, so that the same may be inquired into to the end that the said detained may be restored to her liberty and go hence without day. [11]

Dated at San Francisco, California, July 12th, 1922.

LOUIE HIM.

GEO. A. MCGOWAN,

Attorney for Petitioner,

550 Montgomery Street,

San Francisco, Calif. [12]

United States of America,  
State and Northern District of California,  
City and County of San Francisco,—ss.

Louie Him, being first duly sworn, according to law deposes and says:

That he is the petitioner named in the foregoing petition; that the same has been read and explained to him and he knows the contents thereof; that the said is true of his own knowledge except as to those matters which are therein stated on his information and belief, and as to those matters he believes it to be true.

LOUIE HIM.

Subscribed and sworn to before me this 12th day of July, 1922.

[Seal]

HARRY L. HORN,  
Notary Public.

[Endorsed]: Filed Jul. 14, 1922, W. B. Mal-  
ling, Clerk. By C. W. Calbreath, Deputy Clerk.  
[13]

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In the Southern Division of the United States Dis-  
trict Court in and for the Northern District  
of California, First Division.

No. 17,605.

In the Matter of LEONG SHEE 16,516/3-4 Ex  
SS. "Tjikembang," September 15, 1917, on  
Habeas Corpus.

**Order to Show Cause.**

Good cause appearing therefor, and upon reading the verified petition on file herein:

IT IS HEREBY ORDERED that Edward White, Commissioner of Immigration for the Port of San Francisco, appear before this Court on the 15th day of July, 1922, at the hour of 10 o'clock A. M. of said day, to show cause, if any he has, why a writ of habeas corpus should not be issued herein as prayed for, and that a copy of this order be served upon the said commissioner.

AND IT IS FURTHER ORDERED that the said Edward White, Commissioner of Immigration as aforesaid, or whoever, acting under the orders of the said Commissioner of the Secretary of Labor, shall have the custody of the said Leong Shee, are hereby ordered and directed to retain the said Leong Shee within the custody of the said Commissioner of Immigration, and within the jurisdiction of this Court until its further order herein.

Dated at San Francisco, California, July 14th, 1922.

M. T. DOOLING,  
United States District Judge.

[Endorsed]: Filed Jul. 14, 1922. W. B. Maling, Clerk. By C. M. Taylor, Deputy Clerk. [14]

In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 17,605.

In the Matter of LEONG SHEE on Habeas Corpus.

**Demurrer to Petition for Writ of Habeas Corpus.**

Comes now the respondent, Edward White, Commissioner of Immigration at the Port of San Francisco, in the Southern Division of the Northern District of California, and demurs to the petition for a writ of habeas corpus in the above-entitled cause and for grounds of demurrer alleges:

I.

That the said petition does not state facts sufficient to entitle petitioner to the issuance of a writ of habeas corpus, or for any relief thereon.

II.

That said petition is insufficient in that the statements therein relative to the record of the testimony taken on the trial of the said applicant are conclusions of law and not statement of the ultimate facts.

WHEREFORE, respondent prays that the writ of habeas corpus be denied.

JOHN T. WILLIAMS,  
United States Attorney,  
BEN F. GEIS,  
Asst. United States Attorney,  
Attorneys for Respondent.

[Endorsed]: Filed Aug. 12, 1922. W. B. Mal-  
ing, Clerk. By T. L. Baldwin, Deputy Clerk. [15]

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At a stated term of the Southern Division of the United States District Court for the Northern District of California, First Division, held at the courtroom thereof, in the city and county of San Francisco, on Saturday, the 12th day of August, in the year of our Lord, one thousand nine hundred and twenty-two. Present: The Honorable FRANK H. RUDKIN, District Judge.

No. 17,605.

In the Matter of LEONG SHEE on Habeas Corpus.

**Minutes of Court—August 12, 1922—Hearing on Demurrer.**

This matter came on regularly this day for hearing on order to show cause as to the issuance of a writ of habeas corpus herein. Geo. A. McGowan, Esq., was present for and on behalf of petitioner and detained. P. A. Robbins, Esq., was present for and on behalf of respondent, and filed demurrer to petition, and all parties consenting thereto, it is ordered that the immigration records be filed as Respondent's Exhibits "A," "B," "C," "D," "E," "F" and "G," and that the same be considered as part of the original petition. After argument by the respective attorneys, the Court ordered that said matter be and the same is hereby submitted.



In the Southern Division of the United States District Court for the Northern District of California, First Division.

No. 17,605.

In the Matter of LEONG SHEE, on Habeas Corpus.

**(Order Sustaining Demurrer.)**

GEORGE A. MCGOWAN, Esq., Attorney for Petitioner.

JOHN T. WILLIAMS, Esq., United States Attorney, and

BEN F. GEIS, Esq., Assistant United States Attorney, Attorneys for Respondent.

**Memorandum.**

RUDKIN, District Judge.—On the grounds of public policy the courts of this country will not recognize plural marriages or the right of Chinese subjects to terminate the marriage relation by agreement or at will. The relationship upon which the right to remain in this county is based has not been established and the demurrer is therefore sustained.

August 16th, 1922.

[Endorsed]: Filed Aug. 16, 1922. W. B. Mal-  
ing, Clerk. By C. W. Calbreath, Deputy Clerk.

[17]

In the Southern Division of the United States District Court in and for the Northern District of California, First Division.

No. 17,605.

In the Matter of LEONG SHEE, 16,516/3-4 Ex SS. "Tjikembang," September 15, 1917, on Habeas Corpus.

**Notice of Appeal.**

To the Clerk of the Above-entitled Court, and to the Honorable John T. Williams, United States Attorney for the Northern District of California:

You, and each of you, will please take notice that Leong Shee, the petitioner and the detained above named, does hereby appeal to the Circuit Court of Appeals of the United States for the Ninth Circuit thereof, from the order and judgment made and entered herein on the 16th day of August, 1922, sustaining the demurrer to and in denying the petition for writ of habeas corpus filed herein.

Dated at San Francisco, California, September 6th, 1922.

GEO. A. McGOWAN,

Attorney for Petitioner and Appellant Herein.

In the Southern Division of the United States District Court in and for the Northern District of California, First Division.

No. 17,605.

In the Matter of LEONG SHEE, 16,516/3-4 Ex SS. "Tjikembang," September 15, 1917, on Habeas Corpus.

### **Petition for Appeal.**

Now comes Leong Shee, the petitioner and the appellant herein, and says:

That on the 16th day of August, 1922, the above-entitled Court made and entered its order denying the petition for a writ of habeas corpus, as prayed for, on file herein, in which said order in the above-entitled cause certain errors were made to the prejudice of the appellant herein, all of which will more fully appear from the assignment of errors filed herewith.

WHEREFORE, this appellant prays that an appeal may be granted in her behalf to the Circuit Court of Appeals of the United States for the Ninth Circuit thereof, for the correction of the errors so complained of, and further, that a transcript of the record, proceedings and papers in the above-entitled cause, as shown by the praecipe, duly authenticated, may be sent and transmitted to the said United States Circuit Court of Appeals, for the Ninth Circuit thereof; and further, that the said detained may remain at large upon the bond heretofore given by her in this matter during the

pendency of the appeal herein, so that she may be produced in execution of whatever judgment may be finally entered herein.

Dated at San Francisco, California, September 6th, 1922.

GEO. A. MCGOWAN,  
Attorney for Petitioner and Appellant Herein.  
[19]

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In the Southern Division of the United States District Court in and for the Northern District of California, First Division.

No. 17,605.

In the Matter of LEONG SHEE, 16,516/3-4 Ex. SS. "Tjikembang," September 15, 1917, on Habeas Corpus.

### **Assignment of Errors.**

Comes now Leong Shee, by her attorney, Geo. A. McGowan, Esq., in connection with her petition for an appeal herein, assigns the following errors which she avers occurred upon the trial or hearing of the above-entitled cause, and upon which she will rely, upon appeal to the Circuit Court of Appeals for the Ninth Circuit, to wit:

First. That the Court erred in denying the petition for a writ of habeas corpus herein.

Second. That the Court erred in holding that it had no jurisdiction to issue a writ of habeas corpus, as prayed for in the petition herein.

Third. That the Court erred in sustaining the demurrer and in denying the petition of habeas corpus herein and remanding the petitioner to the custody of the immigration authorities for deportation.

Fourth. That the Court erred in holding that the allegations contained in the petition herein for a writ of habeas corpus and the facts presented upon the issue made and joined herein were insufficient in law to justify the discharge of the petitioner from custody as prayed for in said petition.

Fifth. That the judgment made and entered herein is contrary to law. [20]

Sixth. That the judgment made and entered herein is not supported by the evidence.

Seventh. That the judgment made and entered herein is contrary to the evidence.

WHEREFORE, the appellant prays that the judgment and order of the Southern Division of the United States District Court for the Northern District of the State of California, First Division, made and entered herein in the office of the Clerk of the said Court on the 16th day of August, 1922, discharging the order to show cause, sustaining the demurrer and in denying the petition for a writ of habeas corpus, be reversed, and that this cause be remitted to the said lower court with instructions to issue the writ of habeas corpus, as prayed for in said petition.

Dated at San Francisco, California, September 6th, 1922.

GEO. A. MCGOWAN,  
Attorney for Petitioner and Appellant Herein.

Service of the within notice of appeal, petition for appeal and assignment of errors and receipt of a copy of each thereof is hereby admitted this 11th day of Sept. 1922.

JOHN T. WILLIAMS,  
U. S. Atty., Per G.

[Endorsed]: Filed Sep. 11, 1922. W. B. Maling, Clerk. By C. M. Taylor, Deputy Clerk. [21]

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In the Southern Division of the United States District Court in and for the Northern District of California, First Division.

No. 17,605.

In the Matter of LEONG SHEE, 16,516/3-4 Ex. SS. "Tjikembang," September 15, 1917, on Habeas Corpus.

**Order Allowing Petition for Appeal (And Continuing on Bond).**

On this 11th day of September, 1922, comes Leong Shee, the detained herein, by her attorney, Geo. A. McGowan, Esq., and having previously filed herein, did present to this Court, her petition praying for the allowance of an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, intended to be urged and prosecuted by her, and praying also that a transcript of the record and proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent to the United States Circuit Court of Appeals

for the Ninth Circuit, and further praying that the detained may remain at large upon the bond previously given herein upon her behalf, and that such other and further proceedings may be had in the premises as may seem proper.

ON CONSIDERATION WHEREOF, the Court hereby allows the appeal herein prayed for, and orders execution and remand stayed pending the hearing of the said case in the United States Circuit Court of Appeals for the Ninth Circuit, and that the said detained may remain at large upon the bond previously given upon her behalf during the further proceedings to be had herein and that she be required to surrender herself in execution of whatever judgment is finally entered herein at the termination of said appeal.

Dated at San Francisco, California, September 11, 1922.

M. T. DOOLING,  
United States District Judge.

[Endorsed]: Service of the within order allowing appeal and continuing on bond and receipt of copy thereof is hereby admitted this 11th day of Sept., 1922. [22]

JOHN T. WILLIAMS,  
U. S. Atty., Per G.

Filed Sep. 11, 1922. W. B. Maling, Clerk. By  
C. M. Taylor, Deputy Clerk. [23]

In the Southern Division of the United States District Court in and for the Northern District of California, First Division.

No. 17,605.

In the Matter of LEONG SHEE, on Habeas Corpus.

**Stipulation and Order Respecting Withdrawal of Immigration Record.**

IT IS HEREBY STIPULATED AND AGREED by and between the attorney for the petitioner and appellant herein, and the attorney for the respondent and appellee herein, that the original immigration record in evidencē and considered as part and parcel of the petition for a writ of habeas corpus upon hearing of the demurrer in the above-entitled matter, may be withdrawn from the files of the clerk of the above-entitled court and filed with the clerk of the United States Circuit Court of Appeals in and for the Ninth Judicial Circuit, there to be considered as part and parcel of the record on appeal in the above-entitled case with the same force and effect as if embodied in the transcript of the record and so certified to by the clerk of this court.

Dated at San Francisco, California, May 4th, 1923.

GEO. A. MCGOWAN,

Attorney for Petitioner and Appellant.

JOHN T. WILLIAMS,

United States Attorney for the Northern District of California,

Attorney for Respondent and Appellee. [24]



ORDER.

Upon reading and filing the foregoing stipulation, it is hereby ordered that the said Immigration record therein referred to, may be withdrawn from the office of the clerk of this court and filed in the office of the clerk of the United States Circuit Court of Appeals in and for the Ninth Judicial Circuit, said withdrawal to be made at the time the record on appeal herein is certified to by the clerk of this court.

JOHN S. PARTRIDGE,  
United States District Judge.

Dated at San Francisco, California, May 4th, 1923.

[Endorsed]: Filed May 4, 1923. Walter B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk.  
[25]

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**Certificate of Clerk U. S. District Court to Transcript on Appeal.**

I, Walter B. Maling, Clerk of the United States District Court, for the Northern District of California, do hereby certify that the foregoing 25 pages, numbered from 1 to 25, inclusive, contain a full, true, and correct transcript of certain records and proceedings, in the Matter of Leong Shee, on Habeas Corpus, No. 17,605, as the same now remain on file and of record in this office; said transcript having been prepared pursuant to and in accordance with the praecipe for transcript on

appeal and the instructions of the attorney for petitioner and appellant herein.

I further certify that the cost for preparing and certifying the foregoing transcript on appeal is the sum of Nine Dollars and Forty Cents (\$9.40), and that the same has been paid to me by the attorney for appellant herein.

Annexed hereto is the original citation on appeal issued herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 15th day of May, A. D. 1923.

[Seal]

WALTER B. MALING,

Clerk.

By C. M. Taylor,  
Deputy Clerk. [26]

United States of America,—ss.

The President of the United States, to Edward White, Commissioner of Immigration for the Port of San Francisco, and John T. Williams, United States Attorney for the Northern District of California, His Attorney Herein,  
GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the Clerk's Office of the United States District Court

for the Southern Division of the Northern District of California, First Division, wherein Leong Shee is appellant, and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable FRANK H. RUDKIN, United States Circuit Judge for the Circuit Court of Appeals for the 9th Circuit this 10th day of February, A. D. 1923.

FRANK H. RUDKIN,  
United States Circuit Judge.

Service of the within citation and receipt of a copy thereof is hereby admitted this 9th day of February, 1923.

J. T. WILLIAMS,  
U. S. Attorney for Appellee.

This is to certify that a copy of the within citation on appeal was lodged with me as the Clerk of this court upon the 9th day of February, 1923.

[Seal] WALTER B. MALING,  
Clerk U. S. Dist. Court in and for the Nor. Dist.  
of Calif., at San Francisco.

By C. W. Calbreath,  
Deputy.

[Endorsed]: No. 17,605. United States District Court for the Southern Division of the Northern District of California, First Division. In re: Leong Shee, on Habeas Corpus, Appellant, vs. Edward White, Commissioner of Immigration for

the Port of San Francisco, Appellee. Citation on Appeal. Filed Feb. 10, 1923. W. B. Maling, Clerk. By C. W. Calbreath, Deputy Clerk. [27]

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[Endorsed]: No. 4031. United States Circuit Court of Appeals for the Ninth Circuit. Leong Shee, Appellant, vs. Edward White, as Commissioner of Immigration for the Port of San Francisco, Appellee. Transcript of Record. Upon Appeal from the Southern Division of the United States District Court for the Northern District of California, First Division.

Filed May 15, 1923.

F. D. MONCKTON,  
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Paul P. O'Brien,  
Deputy Clerk.

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In the Southern Division of the United States District Court in and for the Northern District of California, First Division.

No. 17,605.

LEONG SHEE, on Habeas Corpus,  
Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration at the Port of San Francisco,  
Appellee.

**Order Enlarging Time to and Including May 7,  
1923, to File Record and Docket Cause.**

Good cause appearing therefor and upon motion of Geo. A. McGowan, Esq., attorney for appellant herein:

IT IS HEREBY ORDERED that the time within which to docket the appeal herein in the office of the clerk of the United States Circuit Court for the Ninth Circuit may be, and the same is hereby extended for thirty days from and after the date hereof.

Dated at San Francisco, California, April 9th, 1923.

FRANK H. RUDKIN,  
Judge of the United States Circuit Court of Appeals, Ninth Circuit.

[Endorsed]: No. 4031. United States Circuit Court of Appeals for the Ninth Circuit. Leung Shee, on Habeas Corpus, Appellant, vs. Edward White, as Commissioner of Immigration at the Port of San Francisco, Appellee. Order Enlarging Time to and Including May 7, 1923, to File Record and Docket Cause. Filed Apr. 9, 1923. F. D. Monckton, Clerk. Refiled May 16, 1923. F. D. Monckton. Clerk.

In the Southern Division of the United States District Court in and for the Northern District of California, First Division.

No. 17,605.

LEONG SHEE, on Habeas Corpus,  
Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration at the Port of San Francisco,  
Appellee.

**Order Enlarging Time to and Including April 9, 1923, to File Record and Docket Cause.**

Good cause appearing therefor and upon motion of Geo. A. McGowan, Esq., attorney for appellant herein:

IT IS HEREBY ORDERED that the time within which to docket the appeal herein in the office of the clerk of the United States Circuit Court for the Ninth Circuit may be, and the same is hereby extended to and including April 9, 1923.

Dated at San Francisco, California, March 10th, 1923.

WM. B. GILBERT,  
Judge of the United States Circuit Court of Appeals, Ninth Circuit.

[Endorsed]: No. 4031. United States Circuit Court of Appeals for the Ninth Circuit. Order Under Subdivision 1 of Rule 16 Enlarging Time to and Including — 192— to File Record and

Docket Cause. Filed Mar. 10, 1923. F. D. Monckton, Clerk. Refiled May 16, 1923. F. D. Monckton, Clerk.

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In the Southern Division of the United States District Court in and for the Northern District of California, First Division.

No. 17,605.

LEONG SHEE, on Habeas Corpus,  
Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration at the Port of San Francisco,  
Appellee.

**Order Extending Time Thirty Days to File Record and Docket Cause.**

Good cause appearing therefor, and upon motion of Geo. A. McGowan, Esq., attorney for Appellant herein:

IT IS HEREBY ORDERED that the time within which to docket the appeal herein in the office of the clerk of the United States Circuit Court for the Ninth Circuit may be, and the same is hereby extended for thirty days from and after the date hereof.

Dated at San Francisco, California, May 8, 1923.

WM. W. MORROW,

Judge of the United States Circuit Court of Appeals, Ninth Circuit.

Service of the within order and receipt of a copy thereof is hereby admitted this 8th day of May, 1923.

JOHN T. WILLIAMS,  
United States Attorney.  
OLENA M. MYERS,  
Asst. U. S. Atty.

[Endorsed]: No. 4031. United States Circuit Court of Appeals for the Ninth Circuit. Leong Shee, on Habeas Corpus, Appellant, vs. Edward White, as Commissioner of Immigration at the Port of San Francisco, Appellee. Order Extending Time to File Record and Docket Cause. Filed May 8, 1923. F. D. Monckton, Clerk. Refiled May 16, 1923. F. D. Monckton, Clerk.